

Department of Justice

§51.18

(b) When the manner in which such a practice or procedure is implemented by the jurisdiction is changed, or

(c) When the rules for determining when such a practice or procedure will be implemented are changed.

The failure of the Attorney General to object to a recurrent practice or procedure constitutes preclearance of the future use of the practice or procedure if its recurrent nature is clearly stated or described in the submission or is expressly recognized in the final response of the Attorney General on the merits of the submission.

§51.15 Enabling legislation and contingent or nonuniform requirements.

(a) With respect to legislation (1) that enables or permits the State or its political subunits to institute a voting change or (2) that requires or enables the State or its political subunits to institute a voting change upon some future event or if they satisfy certain criteria, the failure of the Attorney General to interpose an objection does not exempt from the preclearance requirement the implementation of the particular voting change that is enabled, permitted, or required, unless that implementation is explicitly included and described in the submission of such parent legislation.

(b) For example, such legislation includes—

(1) Legislation authorizing counties, cities, school districts, or agencies or officials of the State to institute any of the changes described in §51.13,

(2) Legislation requiring a political subunit that chooses a certain form of government to follow specified election procedures,

(3) Legislation requiring or authorizing political subunits of a certain size or a certain location to institute specified changes,

(4) Legislation requiring a political subunit to follow certain practices or procedures unless the subunit's charter or ordinances specify to the contrary.

§51.16 Distinction between changes in procedure and changes in substance.

The failure of the Attorney General to interpose an objection to a proce-

cedure for instituting a change affecting voting does not exempt the substantive change from the preclearance requirement. For example, if the procedure for the approval of an annexation is changed from city council approval to approval in a referendum, the preclearance of the new procedure does not exempt an annexation accomplished under the new procedure from the preclearance requirement.

§51.17 Special elections.

(a) The conduct of a special election (e.g., an election to fill a vacancy; an initiative, referendum, or recall election; or a bond issue election) is subject to the preclearance requirement to the extent that the jurisdiction makes changes in the practices or procedures to be followed.

(b) Any discretionary setting of the date for a special election or scheduling of events leading up to or following a special election is subject to the preclearance requirement.

(c) A jurisdiction conducting a referendum election to ratify a change in a practice or procedure that affects voting may submit the change to be voted on at the same time that it submits any changes involved in the conduct of the referendum election. A jurisdiction wishing to receive preclearance for the change to be ratified should state clearly that such preclearance is being requested. See §51.22 of this part.

§51.18 Federal court-ordered changes.

(a) *In general.* Changes affecting voting for which approval by a Federal court is required, or that are ordered by a Federal court, are exempt from section 5 review only where the Federal court prepared the change and the change has not been subsequently adopted or modified by the relevant governmental body. *McDaniel v. Sanchez*, 452 U.S. 130 (1981). (See also §51.22.)

(b) *Subsequent changes.* Where a Federal court-ordered change is not itself subject to the preclearance requirement, subsequent changes necessitated by the court order but decided upon by the jurisdiction remain subject to

preclearance. For example, voting precinct and polling changes made necessary by a court-ordered redistricting plan are subject to section 5 review.

(c) *Alteration in section 5 status.* Where a Federal court-ordered change at its inception is not subject to review under section 5, a subsequent action by the submitting authority demonstrating that the change reflects its policy choices (*e.g.*, adoption or ratification of the change, or implementation in a manner not explicitly authorized by the court) will render the change subject to review under section 5 with regard to any future implementation.

(d) *In emergencies.* A Federal court's authorization of the emergency interim use without preclearance of a voting change does not exempt from section 5 review any use of that practice not explicitly authorized by the court.

[Order 3262–2011, 76 FR 21244, Apr. 15, 2011]

§51.19 Request for notification concerning voting litigation.

A jurisdiction subject to the preclearance requirements of section 5 that becomes involved in any litigation concerning voting is requested to notify the Chief, Voting Section, Civil Rights Division, at the addresses, telefacsimile number, or email address specified in § 51.24. Such notification will not be considered a submission under section 5.

[Order 3262–2011, 76 FR 21244, Apr. 15, 2011]

Subpart B—Procedures for Submission to the Attorney General

§51.20 Form of submissions.

(a) Submissions may be made in letter or any other written form.

(b) The Attorney General will accept certain machine readable data in the following electronic media: 3.5 inch 1.4 megabyte disk, compact disc read-only memory (CD-ROM) formatted to the ISO-9660/Joliet standard, or digital versatile disc read-only memory (DVD-ROM). Unless requested by the Attorney General, data provided on electronic media need not be provided in hard copy.

(c) All electronic media shall be clearly labeled with the following information:

- (1) Submitting authority.
- (2) Name, address, title, and telephone number of contact person.
- (3) Date of submission cover letter.
- (4) Statement identifying the voting change(s) involved in the submission.

(d) Each magnetic medium (floppy disk or tape) provided must be accompanied by a printed description of its contents, including an identification by name or location of each data file contained on the medium, a detailed record layout for each such file, a record count for each such file, and a full description of the magnetic medium format.

(e) Text documents should be provided in a standard American Standard Code for Information Interchange (ASCII) character code; documents with graphics and complex formatting should be provided in standard Portable Document Format (PDF). The label shall be affixed to each electronic medium, and the information included on the label shall also be contained in a documentation file on the electronic medium.

(f) All data files shall be provided in a delimited text file and must include a header row as the first row with a name for each field in the data set. A separate data dictionary file documenting the fields in the data set, the field separators or delimiters, and a description of each field, including whether the field is text, date, or numeric, enumerating all possible values is required; separators and delimiters should not also be used as data in the data set. Proprietary or commercial software system data files (*e.g.*, SAS, SPSS, dBase, Lotus 1–2–3) and data files containing compressed data or binary data fields will not be accepted.

[52 FR 490, Jan. 6, 1987, as amended by Order No. 1536–91, 56 FR 51836, Oct. 16, 1991; Order 3262–2011, 76 FR 21244, Apr. 15, 2011]

§51.21 Time of submissions.

Changes affecting voting should be submitted as soon as possible after they become final, except as provided in §51.22.

[Order 3262–2011, 76 FR 21244, Apr. 15, 2011]